

**Before The  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

---

**In the Matter of**

**Revision of the Commission's Rules To  
Ensure Compatibility With Enhanced 911  
(E911) Emergency Calling Systems**

---

**CC Docket 94-102**

To: Wireless Telecommunications Bureau

**REQUEST FOR A LIMITED WAIVER AND EXTENSION  
OF THE COMMISSION'S PHASE II E911 RULES**

Edge Wireless Licenses, LLC ("Edge"), pursuant to 47 C.F.R. § 1.925, hereby requests a waiver of certain of the Phase I and Phase II enhanced 911 ("E911") requirements set forth in 47 C.F.R. § 20.18. As set forth below, based on unique and unusual circumstances, there is no reasonable or practicable way for Edge to comply with the September 1, 2003 implementation deadline for CMRS carriers operating on a TDMA or GSM network who have selected a handset-based technology as their E911 solution. Further, grant of this limited waiver and extension request would serve the public interest.

**Background**

At the outset, Edge makes clear that it appreciates and supports the public safety importance of Phase II E911 service. For the past several years, Edge has been actively working with the PSAPs in its service area regarding the employment of Phase II E911 service. Further, Edge is one of the few CMRS carriers in its service area that offers a Phase II solution at this time— a GPS accessory that attaches to certain Nokia handsets – but only in certain Oregon

markets where the PSAP supports such technology. The PSAPs in Edge's other markets do not currently support such technology so Edge has not been able to provide its TDMA customers with a Phase II solution in its other markets.

Edge provides digital wireless service in rural Oregon, Idaho, Wyoming, and California. It currently operates both a TDMA and GSM network. However, it currently offers subscriber services on its TDMA network only. Edge will be offering GSM services to its subscribers in the future, in order to offer its customers enhanced data services as well as superior voice quality and also continue to allow Edge's subscribers to seamlessly roam outside Edge's service area. Because Edge operates in a predominately rural area, it has selected a handset-based location technology for both its TDMA and GSM network.

### **Relief Sought**

Edge has not received a valid Phase II PSAP request;<sup>1</sup> and, therefore, it is not required to begin "delivering Phase II enhanced 911 service to the PSAP." 47 C.F.R. § 20.18(g)(2)(ii).

Nonetheless, as a CMRS carrier that at this time has selected a handset-based location technology, Edge is required to commence selling and activating location capable handsets no later than September 1, 2003. 47 C.F.R. § 20.18(g)(1)(i). Out of an abundance of caution, Edge seeks a waiver of Section 20.18(g)(1)(i) of the Commission's rules with respect to (1) its TDMA

---

<sup>1</sup> In April, 2001, Edge received a PSAP request from Oregon Emergency Management (OEM) for the following six counties where it currently does not provide commercial service: Washington, Clackamas, Multnomah, Marion, Polk, and Lane. However, in October, 2002, OEM sought to stay its request for Phase II E911 service, determining that there are too many unresolved issues surrounding Phase II E911 service at this time. Edge has not received notice for any of its Oregon service area.

On March 30, 2001, Edge received a letter from the State of California, Telecommunications Division, indicating that it will begin deploying Phase I and Phase II Service on a scheduled basis throughout California. Subsequently, Edge was informed that the State of California expects to have installed the necessary CPE to allow them to be Phase II capable by the end of 2004 for the following three (3) counties where Edge provides commercial service: Mendocino, Trinity, and Lake. The State of California also expects to install the necessary CPE to be Phase II capable during 2005 for the following

network today; and (2) its GSM network, upon deployment of its GSM services to its subscribers, if location-capable GSM handsets are not commercially available at the time of deployment

### **Discussion**

As a general matter, a waiver is appropriate whenever special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>2</sup> The Commission has established standards to be used when acting upon requests for a waiver of E911 deadlines and obligations.<sup>3</sup> It will grant waiver requests that are specific, focused, and limited in scope, with a clear path to full compliance.<sup>4</sup> Further, carriers should undertake concrete steps to come as close as possible to full compliance and should document their efforts aimed at compliance in support of any waiver request.<sup>5</sup> As set forth below, Edge meets the Commission's strict standards and that the circumstances underlying the request, in sum, present a special case that justifies a limited E911 Phase II waiver and extension.

The circumstances surrounding Edge's waiver and extension request are genuinely "unique and unusual." Edge operates in some of the most rural markets in the United States. In addition, as discussed above, Edge is in the process of transitioning from TDMA to GSM. At this time, there are currently no TDMA or GSM location-capable handsets available. As a result, there is no reasonable way in which Edge can commence selling and activating location-capable TDMA handsets by September 1, 2003; or commence selling and activating location-capable

---

five (5) counties where Edge provides wireless service: Del Norte, Humboldt, Siskiyou, Lassen, and Plumas.

<sup>2</sup> 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D. C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D. C. Cir. 1969)).

<sup>3</sup> *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442, 17457-58, paras. 43-44 (2000) (*E911 Fourth Memorandum Opinion and Order*).

<sup>4</sup> *E911 Fourth Memorandum Opinion and Order*, 15 FCC Rcd at 17458, para. 44.

GSM handsets if they are not available when Edge begins offering GSM services to its subscribers.

**Schedule for Compliance**

With respect to its GSM network, Edge proposes that it will begin selling and activating location-capable handsets when it begins offering GSM services to its subscribers, assuming that GSM location-capable handsets are commercially available and Edge will be able to obtain them. Further, because Edge is ultimately transitioning to GSM, it intends to file in the future, if a valid PSAP request is made, a request that the Commission forbear from applying the Phase II E911 rules to its TDMA network.<sup>6</sup>

**Conclusion**

Based on the foregoing reasons, grant of a limited waiver of the Commission's Phase II E911 rules will serve the public interest.

Respectfully submitted,

EDGE WIRELESS LICENSES, LLC

Lukas, Nace, Gutierrez & Sachs, Chartered  
1111 19<sup>th</sup> Street, NW, Suite 1200  
Washington, DC 20036  
202/857-3500

\_\_\_\_\_/s/\_\_\_\_\_  
Thomas Gutierrez  
Todd Slamowitz  
Its Attorneys

September 2 , 2003

---

<sup>5</sup> *Id.*

<sup>6</sup> In accordance with Section 1.948(b)(3)(ii) of the Commission's rules, any requirement that Edge upgrade its legacy TDMA system and sell location-capable handsets would be "unduly burdensome." 47 C.F.R. §1.948(b)(3)(ii). Further, such costs would be deemed a "lost" investment and contrary to the public interest.

**DECLARATION OF JOSEPH A. GAYER**

I, Joseph A. Gayer, declare under penalty of perjury that the foregoing is true and correct.

1. I am the Director of Strategic Relations of Edge Wireless Licenses, LLC.
2. I am familiar with the facts contained in the foregoing Request for Waiver of the Commission's Phase II E911 Rules, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

\_\_\_\_\_/s/\_\_\_\_\_  
Joseph A. Gayer  
September 2, 2003